

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. At the hearing in this matter the petitioner admitted that she received \$545 in RUFA benefits and \$280 in Food Stamps in December and January that she has since learned she would not have been eligible for had the

Department correctly applied the earned income she received during this period.¹

ORDER

The decision of the Department is affirmed.

REASONS

The petitioner does not dispute that the earnings she received in December 2005 and January 2006 resulted in overpayments in her RUFA benefits (\$545) and Food Stamps (\$280) during that period. The Department concedes that the petitioner was not at fault in reporting her income and that the overpayment is the result of the Department's error.

Under the Food Stamp regulations, the Department is required to "establish a claim against any household that has received more Food Stamp benefits than it is entitled to receive." F.S.M. § 273.18(a). Even if the overpayment can be determined to have been the Department's fault, the regulations provide: "A claim shall be handled as an administrative error claim if the over issuance was caused by State agency action or failure to take action . . ." F.S.M.

¹ If the petitioner now disputes these amounts, she can request another hearing by notifying the Human Services Board of her desire to do so.

§ 273.18(a)(2). The Department is required to "take action to establish a claim against any household that received an over issuance due to an . . . administrative error if . . . [a] state agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment" so long as not more than twelve months have elapsed between the month the over issuance occurred and the month the state agency discovered the error. F.S.M. § 273.18(b)(2)(ii). If administrative error occurred, the size of the Department's claim must equal the difference between what the household should have received and what the household was actually allotted. F.S.M. § 273.18(c)(1)(ii). If the household is continuing to receive Food Stamps, the required repayment is the greater of ten percent of the household's monthly allotment or \$10 per month when the claim is based on administrative error—twenty percent or \$10 when caused by household error. F.S.M. § 273.18(g)(4).

Similarly, the RUFA regulations provide: "Overpayments of assistance, whether resulting from administrative error, client error or payments made pending a fair hearing . . . shall be subject to recoupment." W.A.M. § 2234.2.

Inasmuch as the Department's decision that the petitioner was overpaid \$545 in RUFA benefits and \$280 in

Food Stamps for December 2005 and January 2006 is in accord with the above regulations, the Board is bound by law to affirm.² 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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² The Department shall inform the petitioner of any right she may have to request a "compromise" of this overpayment.